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Demystifying Complexities

TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

August 2019

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A nighttime photograph of a bridge structure, likely a suspension or cable-stayed bridge, viewed from a low angle looking up. The bridge's massive steel towers and cables are illuminated with warm yellow and orange lights, which reflect on the dark water below. The sky is a deep twilight blue. A prominent yellow rectangular box is superimposed over the center of the image, containing the text "Goods & Services Tax" in white, bold, sans-serif font.

Goods & Services Tax

Goods & Services Tax

Extension of due date for filing GST annual return and reconciliation statement till 30 November 2019

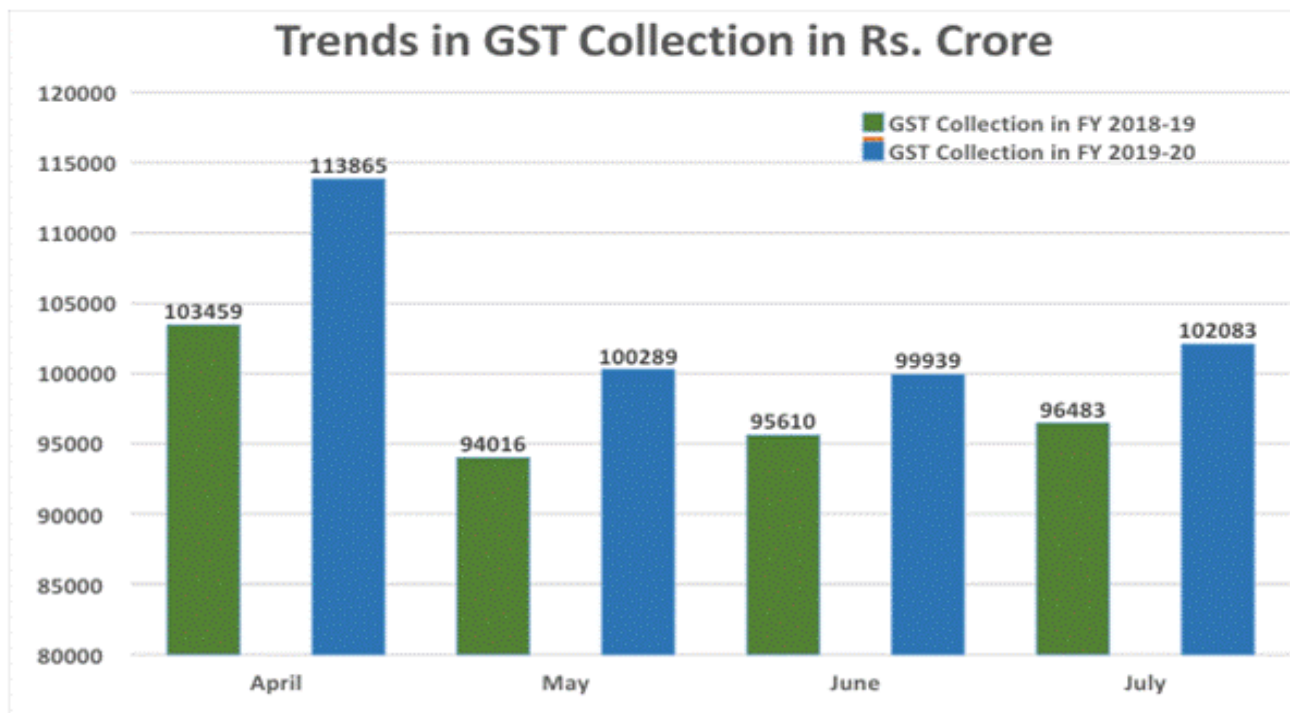
Central Board of Indirect Taxes and Customs (CBIC) has issued removal of difficulty order no.7 dated 26 August 2019, extending the due date for furnishing annual return in Form GSTR-9/ 9A and the reconciliation statement in Form GSTR-9C for the financial year 2017-18 till 30 November 2019 (from 31 August 2019).

Please [Click Here](#) to read the order

GST revenue collection for July 2019 - growth of 5.8 % over revenue for July 2018

Gross GST revenue collection for the month of July, 2019 is Rs. 102,083 crore (details given below), which is a growth of 5.8 % over revenue collection for the same month last year (i.e., July 2018)

IGST (Integrated Goods and Services Tax)	Rs. 50,612 crore
CGST (Central Goods and Services Tax)	Rs. 17,912 crore
SGST (State Goods and Services Tax)	Rs. 25,008 crore
Compensation cess	Rs. 8,551 crore
Total	Rs. 102,083 crore



Please [Click Here](#) to read press release dated 1st August, 2019.

Goods & Services Tax

Extension of time limit for filing Form GSTR-3B (monthly summary return) and Form GST CMP-08 (quarterly payment of taxes by composition dealer)

The due dates for filing above forms have been extended to below.

Forms	Period	Due Date
Form GSTR-3B (for persons registered under specified districts of Bihar, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Uttarakhand, Jammu & Kashmir)	July, 2019	20 th September, 2019
Form GSTR-3B (for other persons)		22 nd August, 2019
Form GST CMP-08	April, 2019 to June, 2019	31 st August, 2019

Please [Click Here](#) to read the notification dated 21st August, 2019 for Form GSTR-3B.

Please [Click Here](#) to read the notification dated 29th July, 2019 for Form GST CMP-08.

Extension in due date for restriction on generating E-way Bill

Central Government has extended the due date for restricting generation of E-way bill for taxpayers who have not filed returns for 2 consecutive tax periods, to 21st November, 2019. Earlier, this date was 21st June, 2019.

Please [Click Here](#) to read the notification dated 20th August, 2019.

GST rates have been reduced on Electric Vehicles and charger or charging stations for Electric vehicles

Central Government has reduced the GST rates on electric vehicles and charger / charging stations for electric vehicles from 1st August, 2019 as below:.

Goods	Existing rate	New rate
Electrically operated vehicles (including 2 and 3 wheeler) For this purpose, 'Electrically operated vehicles' means vehicles which are run solely on electrical energy derived from an external source or from 1 or more electrical batteries fitted to such road vehicles including E- bicycles.	12%	5%
Charger or charging station for Electrically operated vehicles	18%	5%

Please [Click Here](#) to read the notification dated 31st July, 2019.



Direct Tax

Direct Tax

Finance Bill, 2019 becomes Law

The Finance Bill 2019, initially introduced by the Finance Minister in the Lok Sabha on 5th July 2019, received the assent of the President of India on 1st August 2019.

Please [Click Here](#) to read the Finance Act as notified by Ministry of Law & Justice, Government of India

Central Board of Direct Taxes (CBDT) takes another step towards relaxation from Angel Tax in case of start-up companies

What is Angel Tax?

As per section 56(2)(viib) of the Income-tax Act, issue of shares by a closely held company to a resident at a premium to Fair Market Value ('FMV') of shares (determined in the prescribed manner) results in such premium being taxed under the head 'Income from other sources' in the hands of the issuer company. This tax levy is commonly referred to as 'Angel Tax'.

Background:

The Department for Promotion of Industry & Internal Trade ('DPIIT') vide notification dated 19 February 2019 has relaxed conditions and procedure for exemption from 'Angel tax' for start-up companies. Following this, the CBDT issued Notification No.13 / 2019 dated 5 March, 2019 to provide Angel-Tax exemption to start-ups from taxation of excess share premium received by such start-up companies from resident investors.

The DPIIT Notification explicitly provided that the Angel Tax-exemption would not be available with respect to those share issuances for which addition on account of Angel Tax was already made prior to 19 February 2019 (being the date of DPIIT Notification). This was unfair to those start-ups which, despite satisfying all other conditions, could not benefit from this relaxation solely because an adverse order was passed by the tax authorities prior to 19 February 2019.

Clarification issued by CBDT:

To address this concern, CBDT has issued a clarification to extend the benefit of the DPIIT Notification to even those start-ups where addition on account of Angel Tax had already been made prior to 19 February 2019 *provided* the other conditions mentioned in the DPIIT Notification are fulfilled *and* the assessee has subsequently submitted the declaration in Form 2 to the effect that it fulfills the conditions mentioned in the DPIIT notification dated 19 February 2019.

Please [Click Here](#) to read clarification letter dated 9th August 2019

CBDT simplifies process of assessment for Start-ups

CBDT has laid down the following procedure for assessment of startup entities involving the issue of "Angel Tax" in cases where scrutiny assessments by the Assessing Officers (AOs) is pending. 'Angel Tax' refers to taxation of excess premium received by a closely-held company from a resident investor (i.e, consideration received in excess of fair value of shares).

Direct Tax

Status of recognition by DPIIT	Whether Declaration for exemption from Angel Tax in Form 2 has been filed by the Start-up	Type of Scrutiny	Issues Involved	Action recommended by CBDT
Startup-Company recognized by DPIIT	Yes	Limited Scrutiny	Single issue on applicability of Angel Tax	Contention of the assessee will be summarily accepted
		Limited Scrutiny / Complete Scrutiny	Multiple issues including applicability of Angel Tax	<ul style="list-style-type: none"> • Angel Tax issue will not be pursued by AO • Inquiry regarding other issues shall be carried out by AO only after obtaining approval of supervisory officer
	No		---	Inquiry shall be carried out by AO only after obtaining approval of supervisory officer
Startup-Company <u>not</u> recognized by DPIIT	---		Either Single or Multiple including applicability of Angel Tax	

Please [Click Here](#) to read the press release dated 10th August 2019

Direct Tax

CBDT's clarification on eligibility of small Start-ups to avail tax holiday u/s 80IAC

Background:

Conditions for qualifying as Start-up for the purpose of DPIIT's notification dated 19 February 2019	Conditions for profit-linked tax deduction to Start-ups u/s 80IAC of the Act
<ol style="list-style-type: none">1. An entity shall be considered as a startup up to 10 years from the date of its incorporation and it should be formed as a private limited company / partnership firm / limited liability partnership2. Turnover should be < INR 100 Crore for any of the financial years since incorporation/ registration3. Entity is working towards innovation/development/improvement of products or processes or services, or it is a scalable business model with a high potential of employment generation or wealth creation	<ol style="list-style-type: none">1. Entity is incorporated between April 2016 to April 20212. Turnover should be < INR 25 Crore in the year for which deduction is claimed3. Entity holds a certificate of eligible business from the Inter-Ministerial Board of Certification

The Confusion:

As per media reports, there was discrepancy to the effect that the Income-tax law is yet to reflect DPIIT's higher turnover threshold of INR 100 Crore for the purpose of tax deduction u/s 80IAC.

Clarification issued by CBDT:

CBDT vide Press Release dated 22 August 2019 has clarified the following:

- Small startups with *turnover upto INR 25 Crore* will continue to get the promised tax holiday (3 out of 7 years from the year of its incorporation) u/s 80-IAC of the Income-tax Act
- Start-ups recognized by DPIIT did not *automatically* become eligible for deduction u/s 80IAC of the Act. A start-up has to fulfill the conditions specified in section 80-IAC for entitlement to said deduction. Therefore, the turnover limit for small start-ups claiming deduction is to be determined by the provisions of section 80-IAC of the Act and not from the DPIIT notification.
- There is no contradiction in DPIIT's notification dated 19 February 2019 and Section 80-IAC of the Income-tax Act because (para 3 of) the said notification clearly mentions that a start-up shall be eligible for claiming deduction u/s 80-IAC of the Act, only if the start-up fulfills the conditions specified in Explanation to Section 80-IAC which states that total turnover should not exceed INR 25 Crore in the year for which deduction is claimed. Therefore, the turnover limit for eligibility for deduction u/s 80-IAC of the Act, as per the DPIIT's notification is also INR 25 Crore.

Please [Click Here](#) to read the Press Release dated 22nd August 2019

Direct Tax

Foreign investors earning income from investment fund set-up in International Financial Services Centre (IFSC) are exempt from return-filing

Background:

On 26 November 2018, the Securities and Exchange Board of India (SEBI) had issued a circular specifying the 'Operating guidelines for AIFs in IFSC' which provides a robust framework for setting up Alternative Investment funds (AIF) in an IFSC. Thereafter the Finance Bill, 2019 proposed tax initiatives for promoting the development of world-class financial infrastructure in India to bring the IFSC at par with similar IFSCs in other countries.

Recent Notification:

The CBDT has issued a notification on 26 July 2019 exempting non-residents and foreign companies from furnishing a return of income in India who earns income from investment in an 'investment fund' set-up in IFSC. For this purpose, 'investment fund' means a Category I and II AIF, which has been granted a certificate of registration and is regulated by the SEBI (AIF) Regulations, 2012.

The exemption from furnishing return is subject to following:

- TDS (Tax Deducted at Source) on income of the investor has been deducted and deposited with the Government as per section 194LBB of the Income-tax Act
- There is no other income during the year for which the investor is otherwise liable to file return of income
- No notice must have been issued by the tax authorities for income escaping assessment / reassessment / block assessment.

Please [Click Here](#) to read the notification dated 26 July 2019.

CBDT relaxes time-line for processing returns u/s 143(1) having refund claims

Background:

Several returns which were validly filed for various Assessment Years (AY's) up to the AY 2017-18, could not be processed due to the technical issues or other reasons not attributable to the taxpayer. Consequently, intimation u/s 143(1) regarding processing of such returns could not be sent within the prescribed time limit and the taxpayers are unable to get their legitimate refunds.

To resolve the grievance of such taxpayers various instructions has been issued by the CBDT till date allowing processing of such validly filed time barred returns with refund claims. Vide instruction No.5/2018 dated 21 August 2018 deadline of 31 March 2019 was set to process all valid unprocessed returns with refund claims up to AY 2016-17.

Direct Tax

[Order dated 5 August 2019 issued by CBDT:](#)

To mitigate the genuine hardship being faced by the taxpayer, CBDT vide its circular dated 5 August 2019 has extended the date upto 31st December 2019 for processing of returns and sending intimation to taxpayer, by directing that all the validly filed returns with refund claims upto AY 2017-18, which could not be processed and have become time barred could be processed now with prior administrative approval of Principal Chief Commissioner of Income-tax (CCIT)/CCIT concerned.

However, the above relaxation would not be applicable to the following returns:

- Returns remain unprocessed, where either demand is shown as payable in the return or is likely to arise after processing it.
- Returns filed for any AY prior to AY 2017-18, which were under scrutiny and were not processed u/s 143(1D) of the Income-tax Act
- Returns which remain unprocessed for any reason attributable to the assessee.

Please [Click Here](#) to read the order dated 5 August 2019

CBDT extends time-limit till 30 September 2019 for completing assessments in 'demonetization' cases

CBDT has extended the deadline by another 2 months till 30 September 2019 to complete the final assessment of about 87,000 entities across the country who made suspicious deposits post-demonetization period.

The extension came after Assessing Officers had petitioned the CBDT to extend the deadline by stating reasons such as:

- It was humanly impossible to finish the task by July as it requires a lot of paperwork and manpower
- The number of cases are huge and other routine official work is to be performed by the AOs, including completion of normal scrutiny cases, moreover separate targets have been set for each AO for survey, recovery survey collection, appeal, audit and grievance redressal among others.

Please [Click Here](#) to read the notice dated 26 July 2019

Direct Tax

CBDT mandates mentioning of 'Document Identification Number' in all departmental communication from 1 October 2019 onwards

CBDT has issued circular no. 19 / 2019 stating that no communication shall be issued by an income tax authority relating to assessment, appeals, orders, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the taxpayer or any other person, on or after 1 October, 2019 unless a computer generated 'Document Identification Number' (DIN) has been allotted and is duly quoted in the body of such communication.

Any communication issued without DIN shall be treated as invalid.

In all pending assessment proceedings where notices were issued manually prior to this circular, tax authorities shall upload such notices in the system by 31 October, 2019.

Exceptions:

In some exceptional circumstances, however, the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner/ Director General of income tax. These circumstances are:

Circumstances	Procedure to regularize the manual communication
When there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically	Within 15 days of issuance, <ul style="list-style-type: none">the communication must be uploaded on the SystemDIN must be generated <u>and</u> communicated to the taxpayer as per electronically generated pro-forma available on the system
When communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties	<ul style="list-style-type: none">Communicating the DIN so generated to the taxpayer/any other person as per Electronically generated pro-forma available on the System.
When due to delay in Permanent Account Number (PAN) migration, PAN is lying with non-jurisdictional AO	Additionally, in cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration
When the functionality to issue communication is not available in the system	An intimation of issuance of manual communication shall be sent to the Principal Director General of Income-tax (Systems) within 7 days of issuance.
When PAN of assessee is not available and where a proceeding under the Act (other than verification u/s 131 or 133) is sought to be initiated	---

Please [Click Here](#) to read the circular dated 14 August 2019

Direct Tax

CBDT responds to 19 Frequently Asked Questions (FAQs) with respect to filling-up Income-tax Return (ITR) forms for AY 2019-20

Vide Circular no.18 dated 8 August 2019, CBDT has answered the following FAQs:

S NO.	FAQ	Response by CBDT
1	I am a non-resident. The Taxpayer Identification Number (TIN) is not allotted in my jurisdiction of residence. How do I report the same in the column on “residential status”?	Passport number should be mentioned instead of TIN. Name of the country in which the passport was issued should be mentioned in the column “jurisdiction of residence”.
2	I am a director in a foreign company which does not have PAN. How do I report the same against the column “Whether you were Director in a company at any time during the previous year?”	You should choose “foreign company” in the drop-down provided for “type of company”. In such case, PAN is not mandatory. However, PAN should be mentioned, if such foreign company has been allotted a PAN.
3	Whether an individual who is a non-resident, or resident but not ordinary resident (RoNR) is also required to disclose details of his directorship in a foreign company which does not have any income accruing or arising in India?	Yes
4	I have held shares of a company during the previous year, which are listed in a recognized stock exchange outside India. Whether I am required to report the requisite details against the column “Whether you have held unlisted equity shares at any time during the previous year?”	No
5	I have held equity shares of a company which were previously listed in a recognised stock exchange, but delisted subsequently, and became unlisted. How do I report PAN of company in the column “whether you have held unlisted equity shares at any time during the previous year”?	In such cases, PAN of the company may be furnished if it is available. In case PAN of delisted company cannot be obtained, you may enter a default value in place of PAN, as “NNNNN0000N”.
6	In case unlisted equity shares are acquired or transferred by way of gift, will, amalgamation, merger, demerger, or bonus issue etc., how to report the “cost of acquisition” and “sale consideration” in the relevant column?	You may enter zero or the appropriate value against “cost of acquisition” or “sale consideration” in such cases. Please note that the details of unlisted equity shares held during the year are required only for the purpose of reporting. The quantitative details entered in this column are not relevant for the purpose of computation of total income or tax liability.

Direct Tax

S NO.	FAQ	Response by CBD
7	I hold shares in an unlisted foreign company which has been duly reported in the Schedule FA. Whether I am required to report the same again in the column "Whether you have held unlisted equity shares at any time during the previous year?"	Yes
8	I have held unlisted equity shares as stock-in-trade of business during the previous year. Whether I have to report the same in the column "Whether you have held unlisted equity shares at any time during the previous year?"	Yes
9	Please clarify whether holding of equity shares of a Co-operative Bank or Credit Societies, which are unlisted, are required to be reported?	The details of equity shareholding in any entity which is registered under the Companies Act, and is not listed on any recognised stock exchange, is only required to be reported.
10	I have sold land and building to a non-resident. Whether I need to report the PAN of buyer in the table A1/B1 in Schedule CG?	As mentioned in ITR form, quoting of PAN of buyer is mandatory only if tax is deducted under section 194-IA or is mentioned in the documents.
11	I am resident and have sold land and building situated outside India. Whether I need to report the details of property and identity of buyer in Schedule CG?	The details of property and name of buyer should invariably be mentioned. However, quoting of PAN of buyer is mandatory only if tax is deducted under section 194-IA or is mentioned in the documents.
12	Whether it is mandatory to provide ISIN details and scrip-wise computation of Long Term Capital Gains (LTCG) arising on sale of Shares/Mutual Funds units on which STT has been paid?	tools for computation of LTCG under sections 112A and 115AD have been provided in the departmental utility for the convenience of taxpayers. These are optional tools designed for computation of the final figures of LTCG, which is then populated in the respective items in Schedule CG. Alternatively, the taxpayers can themselves compute the aggregate long term gain or loss manually, and input the same directly in the respective items in Schedule CG.
13	An unlisted company is required to furnish details of assets and liabilities in the Schedule AL-1 of ITR-6? Please clarify whether details of assets held as stock-in-trade of business are also required to be reported therein.	In case jewellery/motor vehicle etc. is held as stock-in-trade of business, the drop-down value "stock-in-trade" should be selected against the field "purpose for which used", while filling up details in the relevant table (table "I" or table "H"). In such cases, only the aggregate values are required to be filled up, and the particular details of each asset held as stock-in-trade is not required to be reported.
14	I hold foreign assets during the previous year which have been duly reported in the Schedule FA. Whether I am required to report such foreign asset again in the Schedule AL (if applicable)?	Yes

Direct Tax

S NO.	FAQ	Response by CBDT
15	An unlisted company is required to furnish details of shareholding as at the end of previous year in the Schedule SH-1 of ITR-6. Please clarify whether these details are required to be furnished in case of an unlisted foreign company.	Not Required
16	An unlisted company is required to furnish details of assets and liabilities in the Schedule AL-1 of ITR-6. Please clarify whether these details are required to be furnished in case of an unlisted foreign company.	Not Required
17	Please clarify whether a farmer producer company as defined in section 581A of Companies Act, 1956 is required to furnish details of shareholding in the Schedule SH-1 of ITR6?	No. However, please ensure to tick the option „Yes“ against the item “whether the company is a producer company as defined in section 581A of Companies Act, 1956?” in Part-A General.
18	A company is required to disclose break-up of all payments and receipts during the year, in foreign currency, as per Schedule FD of ITR-6 (if it is not required to get the accounts audited u/s 44AB). Please clarify whether only the receipts/payments related to business operations in India are required to be reported in Schedule FD?	Yes. In Schedule FD, the break-up of receipts and payments in foreign currency is required to be reported only in respect of business operations in India.
19	In schedule TDS, one is required to enter the head under which corresponding receipt has been offered. In some cases, TDS is deducted by the payer in current year, but corresponding income is to be offered in future years. How to fill up Schedule TDS in such cases?	In such cases, no TDS credit should be claimed under the column “in own hands” for the current year. If this is done, the column “Corresponding receipt offered” is greyed-off and is not required to be filled up.

Please [Click Here](#) to read the circular dated 8th August 2019

CBDT further clarifies reporting requirement for foreign directorship and assets in ITR for AY 2019-20

Subsequent to the above FAQs and as a result of confusion on certain reporting matters, CBDT vide a 2nd circular no.21 dated 27 August 2019 has further clarified the following:

- Individual non-resident taxpayers are not required to provide details of directorship in a foreign company *which does not have any income received or accruing or arising in India.*
- Details of foreign assets are required to be reported by resident taxpayers only if such foreign assets are held during the relevant year in India, as also in the accounting period as per the foreign country (as defined to instructions to ITR forms).

Direct Tax

Detailed explanation:

Subject	Applicable ITR form	Reporting requirement	Clarification vide Circular dated 8 August 2019 (FAQs)	Representation made by industry to Government	Subsequent clarification vide Circular dated 27 August 2019
Details of directorship in a company at any time during the tax year	2 & 3 (Individuals, HUF)	If the taxpayer is a director in a company at any time during the AY, the following details need to be furnished: <ul style="list-style-type: none">• Name and PAN of the company• Type of company (domestic / foreign)• Whether shares of the company are listed or unlisted• Director identification number	As per FAQ 3, a non-resident / resident but not ordinarily resident, is required to disclose details of directorship in a foreign company, even if such foreign company does not have any income accruing or arising in India	Non-residents are taxable in India only in relation to India-sourced income. Hence, they should not be asked to provide details of foreign directorship.	Non-resident taxpayer is <u>not required</u> to disclose details of their directorship in a foreign company which does not have any income received or accruing or arising in India.

Direct Tax

Subject	Applicable ITR form	Reporting requirement	Clarification vide Circular dated 8 August 2019 (FAQs)	Representation made by industry to Government	Subsequent clarification vide Circular dated 27 August 2019
Details of foreign assets	2,3,5,6,7	<p>A resident taxpayer is required to state whether he/she had, at any time during the year:</p> <ul style="list-style-type: none"> • Held any asset located outside India; or • Had signing authority in any account located outside India; or • Had income from any source outside India. <p>If the answer is yes, he / she is required to provide a detailed description of such foreign asset/account in Schedule FA of the ITR form</p> <p>Reporting as per Schedule FA is based on the foreign assets/accounts held by the taxpayer during the relevant 'accounting period' as per the foreign jurisdiction, as defined in the instructions to the ITR forms.</p>	-	<p>How to report cases where foreign assets have been acquired after the end of the 'accounting period' as per foreign jurisdiction, but before end of financial year as per Income-tax Act.</p> <p>Hence, there is a mismatch between the two reporting requirements in the ITR form.</p>	<p>Taxpayer shall be required to provide details of foreign assets/accounts only if he/she has held the foreign assets/accounts at any time during the financial year as per Income-tax Act, <u>as well as</u> at any time during the accounting period in the foreign country.</p> <p>In other words, asset / account held during a period which <u>cumulatively</u> qualifies both as financial year under Income-tax Act <u>as well as</u> accounting year under foreign country jurisdiction, will only be required to be reported.</p>

Direct Tax

CBDT enhances monetary limits for filing departmental appeals

CBDT has enhanced the monetary limit for filing Departmental appeals before various appellate forums as below

Appeals / SLPs in income-tax matters	Existing Monetary Limit (Rs.)	Revised Monetary Limit (Rs.)
Before Appellate Tribunal	20,00,000	50,00,000
Before High Court	50,00,000	1,00,00,000
Before Supreme Court	1,00,00,000	2,00,00,000

Please [Click Here](#) to read the circular dated 8 August 2019

Tax department has launched 'e-Filing Lite', a lighter version of e-Filing portal

To help in faster filing of the income tax returns, the tax department has launched a lighter version of the e-filing website. This is only for those already registered with the website and only provides e-filing related services.

Being a lighter version, the 'e-Filing Lite' will not carry the same links as available to the taxpayer on accessing Portal Login on the income tax e-filing website. The e-Filing Lite portal will be providing access only to three sections:

- Dashboard
- My Account, and
- E-File

Even under 'My Account' section, only Form 26AS, Pre-filled returns and download of XML version of pre-filled returns will be possible.

Direct Tax

Tax department launches new way of making e-verification

To ease e-verification process of ITR, the tax department has now launched a new facility on its e-filing portal. Taxpayers can e-verify their ITR without even logging in to the e-filing website.

On the Income-tax e-filing website, it is possible to see a new 'e-verify return' button flashing on the homepage under 'Quick Links'. Clicking on it will take to the new e-verification page where one can verify ITR by simply giving his / her PAN, mentioning the AY and acknowledgement number mentioned in the ITR-V form.

However, this facility cannot be used in the following cases:

- For returns filed prior to Financial Year 2018-19
- For returns where verification is required to be done via Digital Signature Certificate (DSC)
- For returns filed by the authorized signatory or representative assesseees

CBDT releases checklist to assist taxpayers in filing ITR-7

CBDT has issued a checklist in order to assist taxpayers in submitting ITR 7 for Financial Year 2018-19 (A.Y.2019-20). The objective is to avoid common mistakes in return preparation by taxpayers which may impact uploading of the ITR or processing of the ITR later.

Please [Click Here](#) to read the checklist released on 14 August 2019.

Task Force submits report on new Direct Tax Code to Finance Minister

As per the media reports, a task force appointed by the Central Government to draft New Direct Tax law submitted its report to Finance Minister Nirmala Sitharaman. The report on the new Direct Tax Code (DTC) which seeks to replace the existing Income-tax Act was submitted by Convener of the Task force Shri. Akhilesh Ranjan.

The Task Force was constituted by the Government in November 2017 to review the existing Income Tax Act, 1961 and to draft a new direct tax law in consonance with economic needs of the country.



Company Law

Company Law

Online platform launched and fee prescribed for filing e-Form DIR-3 KYC / Web

Ministry of Corporate Affairs (MCA) has published the Companies (Registration Offices and Fees) Fourth Amendment on 25 July 2019.

Background:

As per Ministry of Corporate Affairs (MCA) regulations, any director who was allotted Director Identification Number (DIN) on or before 31 March 2019 and whose DIN is currently in approved status will have to submit his KYC details to the MCA. The procedure is mandatory for disqualified directors too.

Every person who has already filed DIR-3 KYC till date will be required to complete his KYC through a simple web-based verification service, with pre-filled data based on the records with MCA, for ease of verification.

However, in case a person wishes to update his mobile no. or e-mail address, he would be required to file e-form DIR-3 KYC, as this facility of updation is not being allowed in the web-based service. In case of updation in any other personal detail, e-form DIR-6 may be filed for updation of the same before completion of KYC through the web-based service.

This year due date of filing of both DIR-3 KYC is 30 September 2019.

Highlights of the amendment:

The platform for filing web-based KYC has been launched in August 2019.

Further, the fee for filing the KYC has been prescribed as below:

- Filing of DIR-3 KYC or DIR-3 KYC-WEB on or before 30th September 2019 – Nil
- Filing of DIR-3 KYC or DIR-3 KYC-WEB after 30th September 2019 – Rs.5,000
- Fee payable in case of failure / delay to file the above for the immediately previous financial year – Rs.5,000

Please [Click Here](#) to refer the notification dated 25 July 2019.

Company Law

Transfer of unspent Corporate Social Responsibility (CSR) amount to Government fund

MCA has issued the Companies (Amendment) Act, 2019 on 31st July 2019.

Background:

The earlier provision relating to CSR spend by companies required the Company that in case it failed to spend CSR amount then the Board shall disclose such non-expenditure in its Board report. Earlier the provision was based on 'comply or explain' basis.

Going forward, Companies will have to deposit their unused funds meant for CSR activities to a fund set up by the government for better utilization of resources for public welfare.

Highlights of the Amendment:

- If companies are not able to spend the targeted amount, then they are required to contribute the unspent money to the Funds mentioned in Scheduled VII, for instances, PM's National Relief Fund.
- Companies may retain the CSR amount only to the extent required for on-going projects. Even in such on-going projects, the said amount shall be kept into a special account within 30 days from the end of the financial year, from where it must be spent within the next 3 years, and on failure of the company to spend such amount it will once again be transferred to the Funds mentioned in the Schedule VII.
- Non-compliance of Section 135 will be punishable henceforth.
 - a) Defaulting Companies will be liable to pay fine of not less than Rs. 50,000 which may extend to Rs. 50 lakhs.
 - b) Officers of the company will be liable to be imprisoned for upto 3 years, or pay a fine not less than Rs. 50,000 which may extend to Rs. 5 lakh or both.

Please [Click Here](#) to refer the notification dated 31 July 2019.

Company Law

Dematerialization of securities may now be enforced against private companies too

MCA has issued the Companies (Amendment) Act, 2019 on 31st July 2019.

Background:

Dematerialization is a process through which physical share certificates of an investor are given to the company and an equivalent number of shares are credited into his demat account in electronic form. The process is similar to depositing cash in the bank account of an individual, i.e. currency notes getting converted into electronic form.

The provisions are being extended to all companies, public and private. This means that the Government may now mandate dematerialization for shares of private companies too. Whether this requirement will be made applicable only for fresh issue of capital by private companies or will require all existing shares also to be dematerialized remains to be seen.

Evidently, all shareholders of all private companies may come within the system and get their holdings dematerialized going forward.

Please [Click Here](#) to refer the notification dated 31 July 2019.

Simplification of incorporation process of (non-profit) section 8 Companies

MCA has published the Companies (Incorporation) Sixth Amendment Rules, 2019 on 7 June 2019.

Background:

Earlier, a person or association of persons desirous of incorporating a section 8 Company was required to make an application in Form No. INC 12. With a view to simplify the process for incorporating section 8 companies, requirement of prior filing of INC-12 for new section 8 companies is being dispensed.

Highlights of the New Rules:

- Section 8 Companies can be incorporated by either reserving names through web-based facility on Reserve Unique Name (RUN) portal and filing INC-32 (SPICe) thereafter or by directly filing INC-32 (SPICe).
- License number for a section 8 Company shall henceforth be allotted at the time of incorporation itself.

Please [Click Here](#) to read the rules dated 7 June 2019.

Company Law

Relaxation of restrictions for issue of shares with differential voting rights

MCA has published the Companies (Share Capital and Debentures) Amendment Rules, 2019 on 16th August 2019 amending regulations relating to issue of shares with differential voting rights (DVRs).

Relaxation provided	Old regulations	New Regulations
Threshold limit for issue of shares with DVRs	DVRs could be issued upto a maximum of <u>26%</u> of total paid up equity capital (including equity shares with differential rights)	Limit of 26% has been increased to <u>74%</u>
Eligibility criteria to issue DVRs	Company should have distributable profits in last 3 years	The said restriction has been removed.

Relaxation of restrictions for creation of Debenture Redemption Reserve (DRR) for issue of Debentures

The following companies have been relieved from the requirement of creation of DRR for issue of debentures:

- All India Financial Institutions
- Banking Companies
- Listed companies (including non-banking finance companies registered with RBI)

Further, in case of unlisted companies, the requirement to create DRR at a minimum value of 25% of outstanding debentures, has been decreased to 10%.

Please [Click Here](#) to read the rules dated 16 August 2019.



Reserve Bank of India

Reserve Bank of India

RBI liberalizes restrictions on end use of External Commercial Borrowings (ECB)

Background:

As per erstwhile provisions ECB proceeds cannot be utilised for working capital purposes, general corporate purposes and repayment of Rupee loans except when the ECB is availed from foreign equity holder for a minimum average maturity period of 5 years. Further, on-lending for these activities out of ECB proceeds is also prohibited.

Highlights of the Notification:

To further liberalise ECB framework, Government has now allowed eligible borrowers to raise ECBs for the following purposes from recognised lenders (except foreign branches/ overseas subsidiaries of Indian banks):

- ECBs with a minimum average maturity period of 10 years for working capital purposes and general corporate purposes. Borrowing by NBFCs for the above maturity for on lending for the above purposes is also permitted.
- ECBs with a minimum average maturity period of 7 years can be availed by eligible borrowers for repayment of Rupee loans availed domestically for capital expenditure as also by NBFCs for on-lending for the same purpose. For repayment of Rupee loans availed domestically for purposes other than capital expenditure and for on-lending by NBFCs for the same, the minimum average maturity period of the ECB is required to be 10 years.
- It has been decided to permit eligible corporate borrowers to avail ECB for repayment of Rupee loans availed domestically for capital expenditure in manufacturing and infrastructure sector if classified as SMA-2 or NPA, under any one time settlement with lenders. Lender banks are also permitted to sell, through assignment, such loans to eligible ECB lenders, except foreign branches/ overseas subsidiaries of Indian banks, provided, the resultant ECB complies with all-in-cost, minimum average maturity period and other relevant norms of the ECB framework.

The prescribed minimum average maturity provision for the aforesaid end-uses will have to be strictly complied with under all circumstances..

Please [Click Here](#) to read notification dated 30 July, 2019.



SEBI Regulations

SEBI Regulations

Simplification of regulatory framework for Foreign Portfolio Investors (FPI) in India

Towards easing of regulatory framework for Foreign Portfolio Investors (FPI) in India, the Securities and Exchange Board of India (SEBI) has released a Press Release on 21 August 2019 approving certain key changes to SEBI (FPI) Regulations, 2014 recommended by the Working Group under chairmanship of H.R. Khan.

Background:

SEBI had constituted a working group under the chairmanship of H.R. Khan to advice on liberalization of SEBI (FPI) Regulations, 2014 in India. The report submitted by the working group was released by SEBI for public comments in May 2019:

Issue of Press Release dated 21 August 2019:

In its Board Meeting dated 21 August 2019, SEBI has approved a new set of FPI Regulations considering the report of the working group. Key salient features of the amendments approved by SEBI and indicated in the Press Release include the following.

- Ease in registration process and compliance requirements for FPIs
- Elimination of broad-based eligibility criteria for foreign institutional investors
- Categorized of FPIs into 2 categories, I and II (instead of 3 categories currently)
- Simplification of registration for multiple investment manager structures
- Simplification of documentation requirements for KYC
- Entitlement of central banks that are *not members* of Bank for International Settlement to be eligible for FPI registration.
- Entities established in IFSCs shall be treated as non-resident for obtaining FPI registration purpose
- Permission to FPIs to transfer unlisted / suspended securities off market, to a domestic / foreign investor

Please [Click Here](#) to read Press Release dated 21 August 2019

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

About KrayMan

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We are a team of professionals comprising of Chartered Accountants, Company Secretaries, Cost and Management Accountants, Advocates and MBAs who are truly committed in providing timely, professional and quality services to our Clients thereby building a long term relationship with them.

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- **TiE Delhi** - world's largest entrepreneurial organization with 62 chapters in 18 countries

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